

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 5**

19-09-07

IN THE MATTER OF:)	Docket No. CAA-5-99-033
)	
EBDC, Inc., d/b/a Ellefson Building)	Proceeding to Assess an
Demolition Company)	Administrative Penalty
Dearborn Heights, Michigan)	under Section 113(d) of the
)	Clean Air Act, 42 U.S.C. § 7413(d)
Northwest Detroit Neighborhood)	
Development, Inc.)	
Detroit, Michigan)	
)	
Respondents.)	
_____)	

Consent Agreement and Final Order

1. Complainant, the Director of the Air and Radiation Division, United States Environmental Protection Agency, Region 5 (EPA), brought this administrative action seeking a civil penalty under Section 113(d) of the Clean Air Act (the Act), 42 U.S.C. § 7413(d).

2. On September 8, 1999, EPA filed the complaint in this action against Respondent EBDC, Inc., d/b/a Ellefson Building Demolition Company (EBDC). The complaint alleges that EBDC violated Section 112 of the Act, 42 U.S.C. § 7412, and the National Emission Standard for Hazardous Air Pollutants, National Emission Standard for Asbestos (Asbestos NESHAP), set forth at 40 C.F.R. Part 61, Subpart M (40 C.F.R. §§ 61.140 through 61.157), in connection with demolition projects of commercial buildings located in Detroit, Michigan.

3. EBDC filed an answer and requested a hearing under Section 113(d)(2) of the Act, 42 U.S.C. § 7413(d)(2).

Stipulations

4. EBDC admits the jurisdictional allegations in the complaint and neither admits nor denies the factual allegations in the complaint.

5. EBDC waives its right to contest the allegations in the complaint, and waives its right to appeal under Section 113(d) of the Act, 42 U.S.C. § 7413(d).

6. EBDC certifies that it is complying fully with Section 112 of the Act, 42 U.S.C. § 7412, and the Asbestos NESHAP at 40 C.F.R. §§ 61.140 through 61.157.

7. The parties consent to the terms of this consent agreement and final order (CAFO).

8. The parties agree that settling this action without further litigation, upon the terms in this CAFO, is in the public interest.

Civil Penalty

9. In consideration of the size of EBDC and the economic impact of the penalty on EBDC, and the seriousness of the violation, EPA agrees to mitigate the proposed penalty of \$32,000 to \$13,500.

10. EBDC agrees to pay the United States of America a civil penalty of \$13,500 in three installments, as described in Attachment A. Payment of the first \$4,500 installment must be made within 60 days of the execution of the attached Final Order. A second installment of \$4,500, plus interest accruing at a rate of five percent per annum on the balance due, must be made within **one year** of the date of the first payment. The third and final \$4,500 installment payment, plus interest accruing at a rate of five percent per annum on the balance due, must be made within **one year** of the date of the second installment payment. All three installments must be paid by certified or cashier's check, payable to the "Treasurer, United States of America."

11. EBDC must send the check to:

U.S. Environmental Protection Agency
Region 5
P.O. Box 70753
Chicago, Illinois 60673

12. A transmittal letter, stating Respondent's name, complete address, the case docket number, and the billing document number must accompany the payment. Respondent must write the case docket number and the billing document number on the face of the check. Respondent must send copies of the check and transmittal letter to:

Attn: Regional Hearing Clerk, (R-19J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Attn: Compliance Tracker, (AE-17J)
Air Enforcement and Compliance Assurance Branch
Air and Radiation Division
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, Illinois 60604-3590

Ann Coyle
Office of Regional Counsel
U.S. EPA, Region 5 (C-14J)
77 West Jackson Blvd.
Chicago, Illinois 60604-3509

13. This civil penalty is not deductible for federal tax purposes.

14. If EBDC does not pay timely the civil penalty, EPA may bring an action to collect any unpaid portion of the penalty with interest, handling charges, nonpayment penalties and the United States' enforcement expenses for the collection action under Section 113(d)(5) of the Act,

42 U.S.C. § 7413(d)(5). The validity, amount and appropriateness of the civil penalty are not reviewable in a collection action.

15. Interest will accrue on any overdue amount from the date payment was due at a rate established under 26 U.S.C. § 6621(a)(2). EBDC will pay a \$15 handling charge each month that any portion of the penalty is more than 30 days past due. EBDC will pay a quarterly nonpayment penalty each quarter during which the assessed penalty is overdue according to Section 113(d)(5) of the Act, 42 U.S.C. § 7413(d)(5). This nonpayment penalty will be 10 percent of the aggregate amount of the outstanding penalties and nonpayment penalties accrued from the beginning of the quarter.

General Provisions

16. This CAFO settles EPA's claims for civil penalties for the violations alleged in the complaint.

17. Nothing in this CAFO restricts EPA's authority to seek EBDC's compliance with the Act and other applicable laws and regulations.

18. This CAFO does not affect EBDC's responsibility to comply with the Act and other applicable federal, state and local laws, and regulations for matters other than those settled under this CAFO.

19. This CAFO constitutes an "enforcement response" as that term is used in "U.S. EPA's Clean Air Act Stationary Source Civil Penalty Policy" to determine EBDC's "full compliance history" under Section 113(e) of the Act, 42 U.S.C. § 7413(e).

20. The terms of this CAFO bind EBDC, and its successors, and assigns, and U.S. EPA.

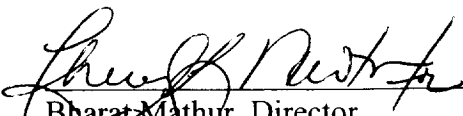
21. Each person signing this consent agreement certifies that he or she has the authority to sign this consent agreement for the party whom he or she represents and to bind that party to its terms.

22. Each party agrees to bear its own costs and fees in this action.

23. This CAFO constitutes the entire agreement between the parties.

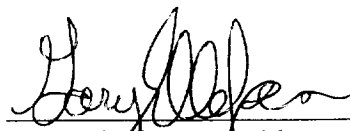
U.S. Environmental Protection Agency,
Complainant

Date: 5/16/00

By: 
Bharat Mathur, Director
Air and Radiation Division
U.S. Environmental Protection Agency,
Region 5 (A-18J)

EBDC, Inc., d/b/a Ellefson Building Demolition
Company, Respondent

Date: _____

By: 
Gary Ellefson, President
EBDC, Inc.

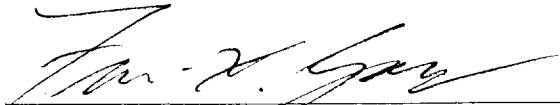
CONSENT AGREEMENT AND FINAL ORDER
EBDC, Inc., d/b/a Ellefson Building Demolition and
Northwest Neighborhood Development, Inc.
Docket No. CAA-5-99-033

Final Order

It is ordered as agreed to by the parties and as stated in the consent agreement, effective immediately upon filing of this CAFO with the Regional Hearing Clerk.

Date: _____

5/17/00



Francis X. Lyons
Regional Administrator
U.S. Environmental Protection Agency, Region 5
77 West Jackson Boulevard
Chicago, Illinois 60604-3590

CERTIFICATE OF SERVICE

I, Shanee Rucker, certify that I hand delivered the original of the Consent Agreement and Final Order, docket number CAA-5-99-033 to the Regional Hearing Clerk, Region 5, United States Environmental Protection Agency, and that I mailed three correct copies by first-class, postage prepaid, certified mail, return receipt requested, to Todd Richards, by placing them in the custody of the United States Postal Service addressed as follows:

Todd Richards
Pepper Hamilton, LLP
100 Renaissance Center
Detroit, Michigan 48243-1157

on the 19th day of May, 2000.

Shanee Rucker

Shanee Rucker
AECAS (MI/WI)

CERTIFIED MAIL RECEIPT NUMBER: 2199026509